

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Gracinda Pereira

DEFENDANTS

A&S Services Group, LLC t/a A&S Kinard

(b) County of Residence of First Listed Plaintiff York

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant York

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

Samuel A. Dion, Esquire, Dion & Goldberger

1845 Walnut Street, Suite 1199 Philadelphia, PA 19103

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)☐ 1 U.S. Government Plaintiff☒ 3 Federal Question
(U.S. Government Not a Party)☐ 2 U.S. Government Defendant☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input checked="" type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

Title VII

Pregnancy Discrimination

VII. REQUESTED IN COMPLAINT:
☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

GRACINDA PEREIRA

v.

A&S SERVICES GROUP LLC t/a
A&S KINARD

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No.

JURY TRIAL DEMANDED

CIVIL ACTION COMPLAINT

COMES NOW, Plaintiff, by counsel, and complains of
defendant as follows:

JURISDICTION

1. This Court has jurisdiction over this matter pursuant to the 42 U.S.C. Section 2000(e) et seq. of the Civil Rights Act of 1964 as amended (hereinafter "Title VII") and The Pregnancy Discrimination Act of 1978 (hereinafter "PDA"). This Complaint has been filed within 90 days after issuance of a Notice of Right to Sue by the EEOC.

PARTIES

2. Plaintiff, Giaconda Pereira, is an adult individual who resides at 1691 Long Drive, York, PA 17406.

3. Defendant, A&S Services Group LLC t/a A&S Kinard, is a corporation with a place of business located at 310 North Zarfoss Drive, York, PA 17404.

FACTS

4. At all times material hereto, defendant employed more than 15 people nationally.

5. On about April 27, 2015, plaintiff began working as a commercial truck driver for defendant.

6. Plaintiff became pregnant in September 2016.

7. On December 2, 2015, plaintiff notified defendant that she was pregnant and she presented a doctors note to defendant requesting to reduce her work hours to no more than 40 hours per week (8 hours per day), and to take breaks "when necessary," as an accommodation for her pregnancy.

8. After agreeing to grant the accommodations that plaintiff's doctor had recommended, defendant and its agents started to treat plaintiff differently.

9. Before she notified defendant that she was pregnant, plaintiff was regularly assigned to non-smoking trucks virtually every workday because she explained that she was allergic to the smoke.

10. Before plaintiff notified defendant that she was pregnant, she also was assigned to only automatic transmission trucks, which are easier to operate.

11. After notifying defendant that she was pregnant, plaintiff was never again assigned to non-smoking and automatic transmission trucks, and instead, every truck to which she was assigned reeked of cigarettes and had a manual transmission.

12. Plaintiff complained multiple times that she should not be around smoke because she was pregnant and because she was allergic to smoke, and the smoke smell caused her to continuously cough.

13. Despite plaintiff's complaints, defendant forced her to drive the cigarette smelling manual transmission trucks, and defendant's agent, Brian (plaintiff's Driving Manager) told her: "If you don't want to drive that truck you can go home."

14. Plaintiff reluctantly continued to drive the cigarette smelling trucks to keep her job.

15. After December 2015, plaintiff specifically complained and requested that defendant to assign her an automatic transmission truck like she had always been assigned before defendant knew she was pregnant, but her complaints were ignored.

16. Plaintiff was out sick (unrelated to her pregnancy) from February 12, 2016 through February 21, 2016 due to a sinus

infection and pleurisy and she was cleared to return to work full duty (with the prior accommodations for her pregnancy) on February 22, 2016.

17. While she was out sick, plaintiff asked defendant if she should bring a note upon her return and Brian told her that she did not need one.

18. Plaintiff came in to work on February 22, 2016, and Brian (my Manager) assigned her a truckload to haul.

19. Before she could start work that day, plaintiff then saw Brian's manager whisper something to Brian and Brian asked me if she had a doctor's note.

20. Plaintiff reminded Brian that he told her she did not need a note, but Brian then insisted that plaintiff needed a note.

21. Plaintiff went straight to her doctor's office and got the note on February 22, 2016.

22. On February 23, 2016, plaintiff called Brian and told him that she had the note and would be in later that day, but Brian told plaintiff that he did not have any work for plaintiff and told her to stay home.

23. On February 24, 2016, plaintiff again called Brian and told him she would be in later that day, but Brian again told her to stay home—this time because of "bad weather".

24. Plaintiff always worked in bad weather in the past and there were was never a shortage of loads in the past.

25. On February 25, 2016, plaintiff decided to drive straight to work and confront Brian.

26. After waiting for 30 minutes trying to get Brian's attention, plaintiff handed him the doctor's note.

27. Brian then informed plaintiff that she was terminated.

28. On February 26, 2016, plaintiff called Sandy Latchaw in defendant's Human Resources Department and Ms. Latchaw told her that she was terminated because she missed "7 days" of work.

29. Plaintiff was never issued any warnings about attendance pursuant to defendant's progressive discipline policy.

30. Defendant later falsely contended to the Department of Labor that plaintiff was terminated for being no-call/no-show on February 12, 2016 and February 15, 2016.

31. This was blatantly false in that plaintiff called Brian every day during the time period that she was absent.

32. Defendant's proffered shifting reasons for plaintiff's termination were blatantly false and were mere pretext to mask the true reason for her termination.

33. The true reasons that plaintiff was terminated were because she was pregnant and because she made a reasonable request for an accommodation for her pregnancy.

33. Defendant treated plaintiff differently than similarly situated non-pregnant commercial truck drivers who requested accommodations for medical reasons.

34. Plaintiff was terminated in violation of Title VII and the PDA because she was pregnant and because she requested accommodation for her pregnancy.

35. Defendant is responsible for the actions of its agents, because they were plaintiff's supervisors.

36. Plaintiff was subjected to humiliation, embarrassment, and mental anguish as a consequence of defendant's unlawful adverse employment action taken against her.

37. Plaintiff was suffered lost pay and other financial losses, and she was subjected to humiliation, embarrassment, and mental anguish as a consequence of defendants' termination of her employment.

38. Plaintiff has engaged in great efforts to mitigate her damages by searching for new employment, but she has been unsuccessful in her efforts to find equivalent employment to date.

39. Plaintiff is entitled to recover reasonable attorneys fees and costs associated with the prosecution of this lawsuit


COUNT 1- PREGNANCY DISCRIMINATION

40. Plaintiff repeats paragraphs 1-39 as if more fully set forth herein.

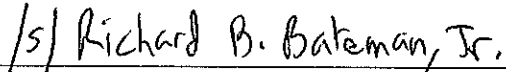
41. By and through its conduct, defendant violated Title VII and the PDA by intentionally discriminating against plaintiff and by terminating her employment because she was pregnant and requested accommodations for her pregnancy.

WHEREFORE, plaintiff demands that judgment be entered in his favor on Counts 1 against defendant for lost pay, lost bonuses, lost benefits, other financial losses, compensatory damages for emotional pain and suffering, punitive damages, liquidated damages, attorneys fees, costs, interest,

reinstatement and any other relief that this Honorable Court
deems to be fair and proper.



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